



7533-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 831

Docket No.: NTSB-GC-2019-0001

RIN 3147-AA21

Civil Monetary Penalty Annual Inflation Adjustment.

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Civil Penalties Inflation Adjustment Act

Improvements Act of 2015, this final rule provides the 2018 and 2019 adjustments to the civil penalties that the NTSB may assess against a person for violating certain NTSB statutes and regulations.

DATES: This final rule is effective on [INSERT DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: A copy of this final rule, published in the **Federal Register** (FR), is available for inspection and copying in the NTSB's public reading room, located at 490 L'Enfant Plaza, SW, Washington, D.C. 20594-2003. Alternatively, a copy is available on the government-wide website on regulations at <http://www.regulations.gov> (Docket ID Number NTSB-GC-2019-0001).

FOR FURTHER INFORMATION CONTACT: Kathleen Silbaugh, General Counsel, (202) 314-6080 or rulemaking@ntsb.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Currently, the NTSB may impose a civil penalty up to \$1,617 on a person who violates 49 U.S.C. 1132 (Civil aircraft accident investigations), 1134(b) (Inspection, testing, preservation, and moving of aircraft and parts), 1134(f)(1) (Autopsies), or 1136(g) (Prohibited actions when providing assistance to families of passengers involved in aircraft accidents). 49 CFR 831.15.

The current maximum penalty amount was calculated after the passage of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act), which required agencies to: (1) adjust the level of civil monetary penalties with an initial “catch-up” adjustment through an interim final rulemaking (IFR); and (2) make subsequent annual adjustment for inflation by January 15th every year. OMB, M-16-06, *Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Feb. 24, 2016).

At the time of the 2015 Act, the maximum civil penalty amount had been \$1,000. 49 U.S.C. 1155. Pursuant to the 2015 Act, the NTSB issued an IFR on October 12, 2017 that calculated the agency’s catch-up adjustment and its 2017 annual inflation adjustment. Civil Monetary Catch Up Inflation Adjustment and Annual Inflation Adjustment, 82 FR 47401 (Oct. 12, 2017). The catch-up adjustment increased the original maximum penalty from \$1,000 to \$1,591. And the 2017 annual adjustment increased the maximum civil penalty from \$1,591 to \$1,617. While the IFR stated that the maximum civil penalty would be adjusted for inflation by January 15, 2018, the agency did not publish subsequent annual inflation adjustments.

The Office of Management and Budget (OMB) has since published updated guidance for Fiscal Years 2018 and 2019. OMB, M-19-04, *Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 14, 2018); OMB, M-18-03, *Implementation of Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 15, 2017). Accordingly, this final rule reflects the NTSB's 2018 and 2019 annual inflation adjustments, which were due on January 15, 2018 and January 15, 2019, respectively. This final rule updates the maximum civil penalty established by the October 12, 2017 IFR.

No violations will be assessed at the 2018 inflation adjustment amount. Nevertheless, the 2018 adjustment was used to calculate the 2019 maximum penalty amount, which ultimately increased the maximum civil penalty from \$1,617 to \$1,692.

II. The 2018 and 2019 annual adjustments.

The 2018 and 2019 annual adjustments are calculated by multiplying the applicable maximum civil penalty amount by the cost-of-living adjustment multiplier, which is based on the Consumer Price Index (CPI-U), and rounding to the nearest dollar. OMB, M-19-04, *Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 14, 2018); OMB, M-18-03, *Implementation of Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 15, 2017). The OMB annually publishes guidance on the adjustment multiplier to assist agencies in calculating the mandatory annual adjustments for inflation.

For the 2018 annual adjustment, the December 15, 2017 OMB annual guidance states that the cost-of-living adjustment multiplier for 2018 is 1.02041. Multiplying \$1,617 (the 2017 inflation adjustment amount) by 1.02041 equals \$1,650.00297, which rounded to the nearest dollar equals \$1,650. As explained above, no violations will be assessed at this amount.

For the 2019 adjustment, the December 14, 2018 OMB annual guidance states that the CPI-U multiplier for 2019 is 1.02522. Multiplying \$1,650 (the 2018 inflation adjustment amount) by 1.02522 equals \$1,691.613, which rounded to the nearest dollar equals \$1,692. This updated maximum penalty applies only to civil penalties assessed after the effective date of this final rule. The next adjustment for inflation will be calculated by January 15, 2020.

III. Regulatory Analysis.

The Office of Information and Regulatory Affairs (OIRA) Administrator has determined agency regulations that exclusively implement the annual adjustment are consistent with OMB's annual guidance, and have an annual impact of less than \$100 million are generally not significant regulatory actions under Executive Order (E.O.) 12866. OMB, M-19-04, *Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 14, 2018). An assessment of its potential costs and benefits under E.O. 12866, *Regulatory Planning and Review* and E.O. 13563, *Improving Regulation and Regulatory Review* is not required because this final rule is not a "significant regulatory action." Likewise, this rule does not require analyses under the Unfunded Mandates Reform Act of 1995 and E.O. 13771, *Reducing Regulation and Controlling Regulatory Costs* because this final rule is nonsignificant.

The NTSB does not anticipate this rule will have a substantial direct effect on state government or will preempt state law. Accordingly, this rule does not have implications for federalism under E.O. 13132, *Federalism*.

This NTSB also evaluated this rule under E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*. The agency has concluded that this final rule will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

The Paperwork Reduction Act of 1995 is inapplicable because the final rule imposes no new information reporting or recordkeeping necessitating clearance by OMB.

The Regulatory Flexibility Act of 1980 does not apply because, as a final rule, this action is not subject to prior notice and comment. *See* 5 U.S.C. 604(a).

The NTSB has concluded that this final rule neither violates nor requires further consideration under the aforementioned Executive Orders and acts.

List of Subjects in 49 CFR Part 831

Aircraft accidents, Aircraft incidents, Aviation safety, Hazardous materials transportation, Highway safety, Investigations, Marine safety, Pipeline safety, Railroad safety.

Accordingly, for the reasons stated in the Preamble, the NTSB amends 49 CFR part 831, as follows:

PART 831—INVESTIGATION PROCEDURES

1. The authority citation for part 831 continues to read as follows:

Authority: 49 U.S.C. 1113(f).

Section 831.15 also issued under Pub. L. 101-410, 104 Stat. 890, amended by Pub. L. 114-74, sec. 701, 129 Stat. 584 (28 U.S.C. 2461 note).

§ 831.15 [Amended]

2. Amend § 831.15 by removing the dollar amount “\$1,617” and add in its place “\$1,692”.

Robert L. Sumwalt, III

Chairman

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